

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/23/97

DEPT. 85

HONORABLE ROBERT H. O'BRIEN

JUDGE

DAROLYN JENSEN

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

R. GARCIA

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

Reporter

9:30 am

BS040197

Plaintiff
Counsel

ALLAN ABSHEZ (X)

FRANK MANCUSO, SR.

VS

Defendant

PETER KAUFMAN (X)

CALIF STATE COASTAL CONSERVANCY Counsel

NATURE OF PROCEEDINGS:

PETITION FOR WRIT OF MANDATE

Matter is called for trial, argued and taken under submission.

Later: All declarations and exhibits filed in this action are admitted in evidence by reference to the court file in this action.

Petition re: 1st cause of action is denied.

Petition re: 2nd cause of action is denied.

Petition re: 3rd cause of action is granted.
Respondent to formally and publicly articulate the procedures developed to comply with Public Resources Code section 31107.1.

Petition re: 4th cause of action is moot per counsel for petitioner.

Counsel for petitioner to prepare, serve and file in Department 85 a proposed statement of decision and a proposed judgment no later than 4:00 p.m. on 9/30/97. The judgment and statement of decision shall reflect that the court is granting paragraph C. of the prayer only and denying A., B., D., and that paragraph E. and F. remain open

Copies of this minute order are sent by U.S. Mail this

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CALIF STATE COASTAL CONSERVANCY

Counsel

NATURE OF PROCEEDINGS:

date addressed as follows:

PETER KAUFMAN, SUPERVISING DEPUTY ATTORNEY GENERAL
110 WEST A STREET, SUITE 1100
P.O. BOX 85266
SAN DIEGO, CA 92101

IRELL & MANELLA
1800 AVENUE OF THE STARS, SUITE 900
LOS ANGELES, CA 90067-4276

1 B. On the First, Second, Third, and Fourth Causes of
2 Action, that this Court issue a peremptory writ of mandate
3 pursuant to Section 1085 of the California Code of Civil
4 Procedure, setting aside the Conservancy's 20-year property
5 management agreement for failure to provide Petitioner and other
6 affected property owners with advance notice and opportunity to be
7 heard and for failure to comply with CEQA;

8 C. On the Third Cause of Action, that this Court issue a
9 peremptory writ of mandate, pursuant to Section 1085 of the
10 California Code of Civil Procedure, commanding the Conservancy and
11 Department of General Services to develop and implement notice
12 procedures to ensure that the Conservancy's transactions are
13 undertaken "efficiently and equitably with proper notice to the
14 public" as required by Section 31107.1 of the Public Resources
15 Code.

16 D. On the Fourth Cause of Action, that this Court issue a
17 peremptory writ of mandate, pursuant to Section 1085 of the
18 California Code of Civil Procedure, commanding the Conservancy and
19 each of them, to include environmental factors listed in Paragraph
20 19, above within the scope of any feasibility study regarding the
21 Basement which may be authorized after Petitioners and other
22 affected property owners are provided with notice and opportunity
23 to be heard;

24 E. On the First, Second, Third, and Fourth Causes of
25 Action, that the Court award Petitioner attorneys' fees pursuant
26 to Section 1021.5 of the California Code of Civil Procedure on the
27 grounds that (i) Petitioner's action protects the important right
28 of the general public to receive notice of the Conservancy's and

1 MRCA's transactions and compels the Conservancy and the Department
2 of General Services to develop and implement long-overdue notice
3 procedures, (ii) Petitioner's action protects the important right
4 of the general public that feasibility studies include a
5 consideration of environmental factors as required by CEQA, and
6 (iii) Petitioner has undertaken a substantial financial burden,
7 disproportionate to his individual stake in the matter, in an
8 effort to privately enforce compliance with California law;

9 F. That the Court award Petitioner the costs of suit
10 incurred herein; and

11 G. That the Court award Petitioner such other further
12 relief as the Court may deem just and proper.

13
14 Dated: November 27, 1996

15 IRELL & MANELLA LLP
16 Allan J. Abshez
17 Michael S. Lowe

18 By:  

19 Allan J. Abshez
20 Attorneys for Petitioner Frank
21 Mancuso, Sr.
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